

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DAVID ROBERTS,	)	Case No.: 1:20-cv-00592-NONE-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER VACATING FINDINGS AND
v.	)	RECOMMENDATIONS ISSUED ON AUGUST 11,
	)	2020, AND GRANTING PLAINTIFF AN
STEPHEN HENDERSON, <i>et al.</i> ,	)	EXTENSION OF TIME TO FILE AN AMENDED
	)	COMPLAINT
Defendants.	)	(ECF Nos. 18, 23)
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	)	
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Plaintiff David Roberts is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff's filed the instant complaint on April 20, 2020. (ECF No. 1.)

On May 1, 2020, the Court screened Plaintiff's complaint and granted Plaintiff leave to file a first amended complaint. (ECF No. 11.)

Plaintiff filed a first amended complaint on June 5, 2020. (ECF No. 14.) On June 17, 2020, 2020, the Court screened Plaintiff's first amended complaint and granted Plaintiff leave to file a second amended complaint. (ECF No. 15.)

Although on June 29, 2020, Plaintiff filed a notice (self-dated June 23, 2020) indicating that an amended complaint was submitted, no second amended complaint was received and/or filed by the Court. (ECF No. 16.) Accordingly, on July 27, 2020, the Court issued an order to show cause why the action should not be dismissed for failure to state a cognizable claim for relief, failure to prosecute,

1 and failure to comply with a court order. (ECF No. 17.) Plaintiff failed to respond to the order to  
2 show cause, and therefore, on August 11, 2020, the undersigned issued Findings and  
3 Recommendations to dismiss the action for failure to prosecute, failure to comply with a court order,  
4 and failure to state a cognizable claim for relief. (ECF No. 18.) The Findings and Recommendations  
5 were served on Plaintiff and contained notice that objections were due within fourteen days. (Id.)

6 After filing and receiving an extension of time, Plaintiff filed objections on September 16,  
7 2020. (ECF No. 23.) In his objections, Plaintiff expresses his desire to proceed with this action. (Id.)  
8 However, Plaintiff is advised that there is not operative complaint that states a cognizable claim.  
9 Therefore, Plaintiff's only option at this point is to file an amended complaint in an attempt to cure the  
10 deficiencies identified in the Court's May 1, 2020 screening order. (ECF No. 11.) If Plaintiff fails to  
11 file an amended complaint, the Court will again issue Findings and Recommendations to dismiss the  
12 action. Accordingly, in the interest of justice, the Court will vacate the Findings and  
13 Recommendations and grant Plaintiff an opportunity to file an amended complaint.

14 Based on the foregoing, it is HEREBY ORDERED that:

- 15 1. The August 11, 2020 Findings and Recommendations (ECF No. 18) are VACATED;
- 16 2. The Clerk of Court shall send Plaintiff a blank amended civil rights complaint form and  
17 a copy of the Court's May 1, 2020 screening order (ECF No. 11);
- 18 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an  
19 amended complaint; and
- 20 4. Failure to comply with this order will result in a recommendation to dismiss the action  
21 for failure to prosecute, failure to comply with a court order, and failure to state a claim  
22 for relief.

23  
24 IT IS SO ORDERED.

25 Dated: September 21, 2020

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UNITED STATES MAGISTRATE JUDGE